

GAHC010182792023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Review.Pet./103/2023

PRAFULLA KUMAR NATH
S/O LT. BHOLARAM NATH, R/O TAXI ALI MOTHADANG, P.O. CHAULKARA,
DIST- SIBSAGAR, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMMISSIONER and SECY. GOVT. OF ASSAM, EDUCATION
SECO DEPTT., DISPUR, GHY-6, ASSAM

2:THE COMMISSIONER AND SECY.
GOVT. OF ASSAM
FINANCE DEPTT.
ASSAM, DISPUR, GHY-6

3:THE DISCIPLINARY AUTHORITY CUM DIRECTOR OF SECONDARY
EDUCATION
ASSAM, KAHILIPARA
GHY-19

4:THE JT. DIRECTOR OF SECONDARY EDUCATION
ASSAM, KAHILIPARA, GHY-19

5:THE INSPECTOR OF SCHOOLS
SIBSAGAR DISTRICT CIRCLE
SIBSAGAR, DIST- SIBSAGAR
ASSAM

6:THE PRINCIPAL
BANMUKH HIGHER SECONDARY SCHOOL
P.O. BANMUKH, DIST- SIBSAGAR, ASSAM

7:THE ASSAM HIGHER SECONDARY EDUCATION COUNCIL
REP. BY ITS SECY.

BAMUNIMAIDAM, GHY-2

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

01.09.2023

Heard Shri S. Afridi, learned counsel for the applicant, who has filed this application for review / clarification of the order dated 02.08.2023 passed by this Court in WP(C) 260/2015. Also heard Ms. D. Mushahary, learned Standing Counsel, Secondary Education Department as well as Shri Upadhyaya, the learned Standing Counsel, Assam Higher Secondary Education Council.

The issue in the writ petition instituted by the present applicant was the cancellation of provincialisation of the services of the petitioner. It was the case of the petitioner that he was appointed as subject teacher in History in the year 1997 at the Banmukh Higher Secondary School in the district of Sivasagar. It however appears that such provincialisation was made along with the services of other teachers in absence of any Feasibility Report so far as the subject of History is concerned.

This Court, after hearing the parties while dismissing the writ petition by holding that no case for interference was made out had however made an observation that since the petitioner was serving for a long period of time, in case the authorities are of the opinion that the subject of History is required to be formally permitted in this school, the case of the petitioner may be considered in accordance with law.

For ready reference, paragraph 30 of the judgment dated 02.08.2023 is extracted herein below:

“Both the writ petitions accordingly stand dismissed. However, considering that the petitioner Prafulla Kumar Nath appears to have served for a long period of time, in case the authorities are of the view that the Subject of History is

required to be formally permitted in the school, the case of the petitioner may be considered in accordance with law.”

The learned counsel for the applicant however submits that after dismissal of the writ petition, certain communications which are relevant to the issue were furnished to them by the client. By the first communication dated 12.09.2016 issued by the Assam Higher Secondary Education Council, the provisional academic permission was granted to the aforesaid school even for the subject of History. A subsequent communication was issued by the Council dated 26.02.2019 granting Provisional Academic Permission to the said School in respect of the said subject of History. The learned counsel for the applicant accordingly submits that this Court could not be apprised about the aforesaid development due to ignorance of the petitioner. He further submits that the said development may be incorporated in the order so that the direction for consideration of the case of the petitioner can be done by taking into consideration the aforesaid two communications which are of immense relevance.

Shri Upadhyay, the learned Standing Counsel of the Assam Higher Secondary Education Council submits that the two documents which have been sought to be introduced in this review petition are not disputed.

In view of the aforesaid facts and circumstances, the order dated 02.08.2023 passed by this Court in WP(C)/260/2015 stands modified by directing consideration of the case of the petitioner by taking into account the aforesaid two communications dated 12.09.2016 and 26.02.2019 issued by the Assam Higher Secondary Education Council.

The present application accordingly stands disposed of.

JUDGE

Comparing Assistant